

# **EXHIBIT 20**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES, *et al.*,

*Plaintiffs,*

vs.

GOOGLE LLC,

*Defendant.*

No. 1:23-cv-00108-LMB-JFA

**DECLARATION OF STEVEN LUTKUS IN SUPPORT OF GOOGLE LLC'S  
OPPOSITION TO PLAINTIFFS' MOTION FOR AN ADVERSE INFERENCE**

I, Steven Lutkus, declare as follows:

1. I am employed by KPMG LLP as a Director, Forensic Technology. My responsibilities include managing and advising clients on all aspects of eDiscovery, including the collection, processing, and production of data. In the course of my responsibilities as an external consultant to Google, I am familiar with the processes by which Google collects and produces documents stored on its systems in discovery and with the tools available to facilitate collection and production.

2. I respectfully submit this declaration in support of Google's Opposition to Plaintiffs' Motion for an Adverse Inference in *United States v. Google LLC*, No. 1:23-cv-00108 (E.D. Va.) (the "Opposition Brief"). I understand that the Opposition Brief relates in part to Google's retention of Chat messages.

3. The contents of this declaration are true and correct to the best of my knowledge, information, and belief, and are based on my personal knowledge of Google's discovery processes,

and a reasonable inquiry into the issues arising in this matter, informed by conversations with my counterparts at Google. I am competent to testify to the matters set forth herein.

4. Google produced for this litigation approximately 6 million documents.

5. Google Vault is an information governance and eDiscovery tool. Google Vault exports communications from Google Chat as “conversations” which may contain multiple individual messages between and among Chat participants in a single document. The sending or receipt of an individual Chat message does not necessarily lead to the export or production of a separate document. A single exported Chat conversation can contain hundreds or thousands of individual Chat messages.

6. The individual messages that comprise the conversation are not stored as separate component messages.

7. To calculate the number of individual messages in a conversation, my colleagues and I deployed an automated script that identifies and counts the number of individual messages within a conversation. The script can be run over populations of Chat conversations to calculate the number of individual messages in the population of Chat conversations.

8. Across the 172 agreed-to custodians in this case, Google collected 670,227 Chat conversations. By deploying that automated script, I determined that there are approximately 8,629,032 individual messages in the populations of Chat conversations collected by Google.

9. Of those collected Chat conversations, Google produced in this litigation 9,939 Chat conversations. By deploying the automated script, I determined that there are approximately 543,341 individual messages in the populations of Chat conversations produced by Google, which constitutes approximately 6.3% of the population of individual Chat messages collected across all 172 agreed-to custodians in this case.

10. I understand that, in Plaintiffs' Motion for an Adverse Inference, they identify eight custodians who are described in the motion as "current and former Google employees who performed duties relevant to Plaintiffs' claims and possessed relevant documents both (1) used chats for substantive discussions, and (2) did not preserve those chats by regularly turning "history on" for them." ECF No. 1116 at 8, 19.

11. Google produced close to 1 million documents across those eight custodians.

12. By deploying the automated script, I determined that Google collected approximately 790,025 individual Chat messages across those eight custodians. By deploying the same script, I determined that Google produced approximately 36,234 individual Chat messages across those eight custodians, which constitutes approximately 4.6% of the population of individual Chat messages collected across those eight custodians.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 16th of August, 2024, in Chicago, Illinois.

*Steven Lutkus*

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STEVEN LUTKUS